

## REMARKS

This Amendment is respectfully submitted in response to the Final Rejection rendered February 8, 2005. It is respectfully filed in conjunction with a Request for Continued Examination. Applicants gratefully acknowledge the Examiner's granting a telephone interview on January 18, 2005.

Applicants have presented three new claims, 53-55, for consideration. These claims find basis in the Specification in original claim 1, and at p. 5, l. 5-12, p. 9, l. 24 – p. 10, l. 3 and 0. 16, l. 2-10.

The Final Rejection of February 8, 2005 again rejected claims 1-3, 6, 7, 9, 15 and 19 under 35 U.S.C. 102(e) as being anticipated by Costanzo (US Patent No. 6,323,219). Applicants respectfully request reconsideration of this rejection in view of the foregoing amendments to the claims and the ensuing discussion.

As previously stated, Applicants respectfully submit that nowhere does Costanzo suggest or describe methods to use the compositions of applicants' invention to affect hair. The Office Action of February 5, 2005 states that "Costanzo discloses topically applying composition that contains serine protease inhibitors. Treating gray hair is affecting hair appearance." [Final Rejection, 2/8/2005, p. 2].

As set forth in the claims, however, particularly in relation to hair growth reduction and delay, the methods of applicants' invention relate to decreasing, rather than increasing, phagocytosis. The one reference in Costanzo to "hair", as follows, relates to phagocytosis **increasing** agents:

...**In an example related to skin disorders**, gray hair is treated with melanin (plain or liposome-delivered) and phagocytosis-**increasing** agent (e.g., SLIGRL), ideally in a shampoo or cream. [Col. 30, l. 22-26] (emphasis added)

Costanzo nowhere indicates that the topical compositions set forth therein should be applied to skin or hair in order to change its appearance or in such a way as to effect a delay in hair growth or facilitating removal of hair, reducing hair visibility or improving hair style or hair management. In fact, one would not expect an individual to apply melanin and a phagocytosis-increasing agent to darken hair that one would want removed. Thus, Costanzo would not teach one of ordinary skill in the art to use compositions set forth therein in accordance with the methods of applicants' invention. In light of the foregoing, Applicants respectfully suggest that the claimed methods are

not anticipated by Costanzo and respectfully request reconsideration of the rejection under 35 U.S.C. 102(e).

The Final Rejection of February 8, 2005 further reiterated the rejection of claims 4, 5, 8, 10-14, 16-18 and 20-22 under 35 U.S.C. 103(a) as being unpatentable over Costanzo in view of JP 9059166A. Applicants respectfully request reconsideration of this rejection in view of the ensuing discussion.

As set forth above, there is no suggestion or teaching in Costanzo to apply the compositions therein to reduce or delay hair growth or reduce hair follicle or shaft size. Furthermore, there is no teaching in Costanzo that would motivate one to combine the teachings therein with JP 9059166. Although Costanzo mentions applying soy-derived compositions to the skin, Costanzo states that the active ingredient therein are “compounds that inhibit trypsin, such as serine protease inhibitors, and in particular, soybean trypsin inhibitor...” [Costanzo, col. 8, l. 44-46]. Costanzo does not cite isoflavones as participating in the methods described therein. The mere presence of isoflavones in soy would not necessarily guide one of ordinary skill in the art toward combining the teachings of Costanzo with the teachings of JP 9059166A.

Furthermore, applicants respectfully submit that JP 9059166A teaches **away** from the methods and compositions of applicants’ invention. As set forth in JP 9059166A, the benefits of a specific type of isoflavone, “malonyl isoflavone glycoside” are quite different from those of the methods of applicants’ invention. Specifically, JP 9059166A suggests that this type of isoflavone **stimulates hair growth**:

Epithelial cell growth promoter useful as dermal agent comprises malonyl isoflavone glycoside prepd. from soybean or aq. extract of soybean as the active ingredient...The growth promoter is useful as a skin cosmetic, **stimulator of hair growth**, anti-inflammatory agent, for preventing skin ageing, skin smoothing and for wound healing. [JP 9059166A, abstract] (emphasis added)

In contrast, the methods of applicants’ invention relating to “effecting changes in mammalian hair appearance and hair pigmentation, and **reducing hair growth**, and hair follicle and hair shaft size” are quite unexpected in light of JP 9059166A. Furthermore, nowhere does JP 9059166A mention changes in mammalian hair appearance, hair pigmentation, or hair follicle and hair shaft size. Thus, applicants respectfully submit that one of ordinary skill in the art would not be motivated to combine the teachings of Costanzo, which does not mention hair treatment at all, with JP

9059166A, which merely discusses utilizing a specific type of isoflavone for stimulating hair growth. Applicants respectfully contend that one of ordinary skill in the art would not have been led to the methods and compositions of their invention by the teachings of Costanzo and JP 9059166A, taken separately or together and therefore respectfully request reconsideration of the rejection under 35 U.S.C. 103(a).

Based upon the foregoing discussion and amendments to the application, applicants respectfully request reconsideration of the foregoing rejections. An early allowance is earnestly solicited.

Respectfully submitted,  
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